

THE DARFUR PEACE AND ACCOUNTABILITY ACT

MARKUP BEFORE THE COMMITTEE ON INTERNATIONAL RELATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

H.R. 3127

MARCH 8, 2006

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THE DARFUR PEACE AND ACCOUNTABILITY ACT

WEDNESDAY, MARCH 8, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Committee met, pursuant to notice, at 10:13 a.m. in room 2172, Rayburn House Office Building, Hon. Henry J. Hyde (Chairman of the Committee) presiding.

Chairman HYDE. The Committee will come to order. Pursuant to notice, I call up the bill, H.R. 3127, The Darfur Peace and Accountability Act, for purposes of markup and move its favorable recommendation to the House. Without objection, the bill will be considered as read, and the amendment in the nature of a substitute, which all of the Members have before them, will be considered as read and adopted.

[The information referred to follows:]

109TH CONGRESS
1ST SESSION

H. R. 3127

To impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Mr. HYDE (for himself, Mr. PAYNE, Mr. SMITH of New Jersey, Mr. LANTOS, Mr. ROYCE, Mr. TANCREDI, Mr. WOLF, Ms. JACKSON-LEE of Texas, Mr. RANGEL, and Mr. CAPUANO) introduced the following bill; which was referred to the Committee on International Relations

A BILL

To impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Darfur Peace and Ac-
5 countability Act of 2005”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term “appropriate congressional com-
5 mittees” means the Committee on International Re-
6 lations of the House of Representatives and the
7 Committee on Foreign Relations of the Senate.

8 (2) GOVERNMENT OF SUDAN.—

9 (A) IN GENERAL.—The term “Government
10 of Sudan” means the National Congress Party,
11 formerly known as the National Islamic Front,
12 government in Khartoum, Sudan, or any suc-
13 cessor government formed on or after the date
14 of the enactment of this Act (including the coa-
15 lition National Unity Government agreed upon
16 in the Comprehensive Peace Agreement for
17 Sudan, signed in Nairobi, Kenya on January 9,
18 2005), except that such term does not include
19 the Government of Southern Sudan.

20 (B) OFFICIALS OF THE GOVERNMENT OF
21 SUDAN.—The term “Government of Sudan”,
22 when used with respect to an official of the
23 Government of Sudan, does not include an
24 individual—

25 (i) who was not a member of such
26 government prior to July 1, 2005; or

1 (ii) who is a member of the Govern-
2 ment of Southern Sudan.

3 (3) SUDAN NORTH-SOUTH PEACE AGREE-
4 MENT.—The term “Sudan North-South Peace
5 Agreement” means the comprehensive peace agree-
6 ment signed by the Government of Sudan and the
7 Sudan People’s Liberation Movement/Army (SPLM/
8 A) in Nairobi, Kenya, on January 9, 2005.

9 **SEC. 3. FINDINGS.**

10 Congress makes the following findings:

11 (1) On July 22, 2004, the House of Represent-
12 atives and the Senate declared that the atrocities oc-
13 curring in the Darfur region of Sudan are genocide.

14 (2) On September 9, 2004, Secretary of State
15 Colin L. Powell stated before the Committee on For-
16 eign Relations of the Senate, “[w]hen we reviewed
17 the evidence compiled by our team, along with other
18 information available to the State Department, we
19 concluded that genocide has been committed in
20 Darfur and that the Government of Sudan and the
21 [Janjaweed] bear responsibility—and genocide may
22 still be occurring”.

23 (3) On September 21, 2004, in an address be-
24 fore the United Nations General Assembly, Presi-
25 dent George W. Bush affirmed the Secretary of

1 State's finding and stated, "[a]t this hour, the world
2 is witnessing terrible suffering and horrible crimes in
3 the Darfur region of Sudan, crimes my government
4 has concluded are genocide".

5 (4) On July 30, 2004, the United Nations Se-
6 curity Council passed Security Council Resolution
7 1556, calling upon the Government of Sudan to dis-
8 arm the Janjaweed militias and to apprehend and
9 bring to justice Janjaweed leaders and their associ-
10 ates who have incited and carried out violations of
11 human rights and international humanitarian law,
12 and establishing a ban on the sale or supply of arms
13 and related materiel of all types, including the provi-
14 sion of related technical training or assistance, to all
15 nongovernmental entities and individuals, including
16 the Janjaweed.

17 (5) On September 18, 2004, the United Na-
18 tions Security Council passed Security Council Reso-
19 lution 1564, determining that the Government of
20 Sudan had failed to meet its obligations under Secu-
21 rity Council Resolution 1556, calling for a military
22 flight ban in and over the Darfur region, demanding
23 the names of Janjaweed militiamen disarmed and
24 arrested for verification, establishing an Inter-
25 national Commission of Inquiry on Darfur to inves-

1 tigate violations of international humanitarian and
2 human rights laws, and threatening sanctions should
3 the Government of Sudan fail to fully comply with
4 Security Council Resolutions 1556 and 1564, includ-
5 ing such actions as to affect Sudan’s petroleum sec-
6 tor or individual members of the Government of
7 Sudan.

8 (6) On February 1, 2005, the United Nations
9 released the Report of the International Commission
10 of Inquiry on Darfur, which had been submitted to
11 the United Nations Secretary-General on January
12 25, 2005.

13 (7) The Report of the International Commis-
14 sion of Inquiry on Darfur established that the “Gov-
15 ernment of the Sudan and the Janjaweed are re-
16 sponsible for serious violations of international
17 human rights and humanitarian law amounting to
18 crimes under international law,” that “these acts
19 were conducted on a widespread and systematic
20 basis, and therefore may amount to crimes against
21 humanity,” and that Sudanese officials and other in-
22 dividuals may have acted with “genocidal intent”.

23 (8) The Report of the International Commis-
24 sion of Inquiry on Darfur further notes that, pursu-
25 ant to its mandate and in the course of its work, the

1 Commission had collected information relating to in-
2 dividual perpetrators of acts constituting “violations
3 of international human rights law and international
4 humanitarian law, including crimes against human-
5 ity and war crimes” and that a sealed file containing
6 the names of those individual perpetrators had been
7 delivered to the United Nations Secretary-General.

8 (9) On March 24, 2005, the United Nations Se-
9 curity Council passed Security Council Resolution
10 1590, establishing the United Nations Mission in
11 Sudan (UNMIS), consisting of up to 10,000 military
12 personnel and 715 civilian police and tasked with
13 supporting implementation of the Sudan North-
14 South Peace Agreement and “closely and continu-
15 ously liais[ing] and coordinat[ing] at all levels with
16 the African Union Mission in Sudan (AMIS) with a
17 view towards expeditiously reinforcing the effort to
18 foster peace in Darfur”.

19 (10) On March 29, 2005, the United Nations
20 Security Council passed Security Council Resolution
21 1591, extending the military embargo established by
22 Security Council Resolution 1556 to all the parties
23 to the N’djamena Ceasefire Agreement and any
24 other belligerents in the states of North Darfur,
25 South Darfur, and West Darfur, calling for an asset

1 freeze and travel ban against those individuals who
2 impede the peace process, constitute a threat to sta-
3 bility in Darfur and the region, commit violations of
4 international humanitarian or human rights law or
5 other atrocities, or violate the military embargo, and
6 establishing a Panel of Experts to assist in moni-
7 toring compliance with Security Council Resolutions
8 1556 and 1591.

9 (11) On March 31, 2005, the United Nations
10 Security Council passed Security Council Resolution
11 1593, referring the situation in Darfur since July 1,
12 2002, to the prosecutor of the International Crimi-
13 nal Court and calling on the Government of Sudan
14 and all parties to the conflict to cooperate fully with
15 the Court, while recognizing that “[s]tates not party
16 to the Rome Statute have no obligation under the
17 [S]tatute”.

18 **SEC. 4. SENSE OF CONGRESS.**

19 It is the sense of Congress that—

20 (1) the atrocities unfolding in the Darfur region
21 of Sudan have been and continue to be genocide;

22 (2) the African Union should rapidly expand
23 the size and amend the mandate of the African
24 Union Mission in Sudan (AMIS) to authorize such
25 action as may be necessary to protect civilians and

1 humanitarian operations, and deter violence in the
2 Darfur region without delay;

3 (3) the international community, including the
4 United Nations, the North Atlantic Treaty Organi-
5 zation (NATO), the European Union, and the
6 United States, should immediately act to mobilize
7 sufficient political, military, and financial resources
8 to support the expansion of the African Union Mis-
9 sion in Sudan so that it achieves the size, strength,
10 and capacity necessary for protecting civilians and
11 humanitarian operations, and ending the continued
12 violence in the Darfur region;

13 (4) if an expanded and reinforced African
14 Union Mission in Sudan fails to stop genocide in the
15 Darfur region, the international community should
16 take additional, dispositive measures to prevent and
17 suppress acts of genocide in the Darfur region;

18 (5) acting under Article 5 of the Charter of the
19 United Nations, the United Nations Security Coun-
20 cil should call for suspension of the Government of
21 Sudan's rights and privileges of membership by the
22 General Assembly until such time as the Govern-
23 ment of Sudan has honored pledges to cease attacks
24 upon civilians, demobilize the Janjaweed and associ-
25 ated militias, and grant free and unfettered access

1 for deliveries of humanitarian assistance in the
2 Darfur region;

3 (6) pursuant to the adoption of resolutions on
4 July 22, 2004, by both the House of Representatives
5 and the Senate, and the declaration on September 9,
6 2004, by former Secretary of State Colin Powell
7 that the atrocities unfolding in Darfur, Sudan, are
8 genocide, and notwithstanding the American
9 Servicemembers' Protection Act of 2002 (title II of
10 the 2002 Public Law 107–206), the United States
11 should render assistance to the efforts of the Inter-
12 national Criminal Court (ICC) to bring to justice
13 persons accused of genocide, war crimes, or crimes
14 against humanity in Darfur, Sudan, provided that
15 assurances have been received by the United Nations
16 Security Council or the ICC that no current or
17 former United States Government official or em-
18 ployee (including any contractor), member of the
19 United States Armed Forces, or United States na-
20 tional will be subject to prosecution by the ICC in
21 connection with those efforts;

22 (7) the United States should not provide assist-
23 ance to the Government of Sudan, other than assist-
24 ance necessary for the implementation of the Sudan
25 North-South Peace Agreement, the support of the

1 southern regional government in Sudan, or for hu-
2 manitarian purposes in Sudan, until such time as
3 the Government of Sudan has honored pledges to
4 cease attacks upon civilians, demobilize the
5 Janjaweed and associated militias, and grant free
6 and unfettered access for deliveries of humanitarian
7 assistance in the Darfur region;

8 (8) the President should seek to assist members
9 of the Sudanese diaspora in the United States by es-
10 tablishing a student loan forgiveness program for
11 those individuals who commit to return to southern
12 Sudan for a period of not less than five years for the
13 purpose of contributing professional skills needed for
14 the reconstruction of southern Sudan;

15 (9) the President should appoint a Presidential
16 Envoy for Sudan to provide stewardship of efforts to
17 implement the Sudan North-South Peace Agree-
18 ment, seek ways to bring stability and peace to the
19 Darfur region, address instability elsewhere in
20 Sudan and northern Uganda, and pursue a truly
21 comprehensive peace throughout the region;

22 (10) the international community should
23 strongly condemn attacks against humanitarian
24 workers and demand that all armed groups in the
25 Darfur region, including the forces of the Govern-

1 ment of Sudan, the Janjaweed, associated militias,
 2 the Sudan Liberation Movement/Army (SLM/A), the
 3 Justice and Equality Movement (JEM), and all
 4 other armed groups to refrain from such attacks;

5 (11) the United States should fully support the
 6 Sudan North-South Peace Agreement and urge
 7 rapid implementation of its terms; and

8 (12) the Sudan People's Liberation Movement
 9 should seek to play a constructive role in bringing
 10 about a political settlement to the crisis in the
 11 Darfur region.

12 **SEC. 5. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.**

13 (a) BLOCKING OF ASSETS AND RESTRICTION ON
 14 VISAS.—Section 6 of the Comprehensive Peace in Sudan
 15 Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note)
 16 is amended—

17 (1) in the heading of subsection (b), by insert-
 18 ing “OF APPROPRIATE SENIOR OFFICIALS OF THE
 19 SUDANESE GOVERNMENT” after “ASSETS”;

20 (2) by redesignating subsections (e) through (e)
 21 as subsections (d) through (f), respectively; and

22 (3) by inserting after subsection (b) the fol-
 23 lowing new subsection:

1 “(c) BLOCKING OF ASSETS AND RESTRICTION ON
2 VISAS OF CERTAIN INDIVIDUALS IDENTIFIED BY THE
3 PRESIDENT.—

4 “(1) BLOCKING OF ASSETS.—Beginning on the
5 date that is 30 days after the date of the enactment
6 of the Darfur Peace and Accountability Act of 2005,
7 and in the interest of contributing to peace in
8 Sudan, the President shall, consistent with the au-
9 thorities granted in the International Emergency
10 Economic Powers Act (50 U.S.C. 1701 et seq.),
11 block the assets of any individual who the President
12 determines is responsible, either by commission or
13 omission, for acts of genocide, war crimes, or crimes
14 against humanity in Sudan, including the family
15 members or any associates of such individual to
16 whom assets or property of such individual was
17 transferred on or after July 1, 2002.

18 “(2) RESTRICTION ON VISAS.—Beginning on
19 the date that is 30 days after the date of the enact-
20 ment of the Darfur Peace and Accountability Act of
21 2005, and in the interest of contributing to peace in
22 Sudan, the President shall deny visas and entry to
23 any individual who the President determines is re-
24 sponsible, either by commission or omission, for acts
25 of genocide, war crimes, or crimes against humanity

1 in Sudan, including the family members or any asso-
 2 ciates of such individual to whom assets or property
 3 of such individual was transferred on or after July
 4 1, 2002.”.

5 (b) WAIVER.—Section 6(d) of the Comprehensive
 6 Peace in Sudan Act of 2004 (as redesignated by sub-
 7 section (a)) is amended by adding at the end the following
 8 new sentence: “The President may waive the application
 9 of paragraph (1) or (2) of subsection (c) with respect to
 10 an individual if, prior to exercising the waiver, the Presi-
 11 dent transmits to the appropriate congressional commit-
 12 tees a notification of the waiver which includes the name
 13 of the individual and the reasons for the waiver.”.

14 **SEC. 6. ADDITIONAL AUTHORITIES TO DETER AND SUP-**
 15 **PRESS GENOCIDE IN DARFUR.**

16 (a) UNITED STATES ASSISTANCE TO SUPPORT
 17 AMIS.—Section 7 of the Comprehensive Peace in Sudan
 18 Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note)
 19 is amended—

20 (1) by striking “Notwithstanding” and insert-
 21 ing “(a) GENERAL ASSISTANCE.—Notwithstanding”;
 22 and

23 (2) by adding at the end the following new sub-
 24 section:

1 “(b) ASSISTANCE TO SUPPORT AMIS.—Notwith-
2 standing any other provision of law, the President is au-
3 thorized to provide assistance, on such terms and condi-
4 tions as the President may determine and in consultation
5 with the appropriate congressional committees, to rein-
6 force the deployment and operations of an expanded Afri-
7 can Union Mission in Sudan (AMIS) with the mandate,
8 size, strength, and capacity to protect civilians and hu-
9 manitarian operations, stabilize the Darfur region of
10 Sudan and, as necessary, dissuade and deter air attacks
11 directed against civilians and humanitarian workers, in-
12 cluding but not limited to providing assistance in the areas
13 of logistics, transport, communications, materiel support,
14 technical assistance, training, command and control, aerial
15 surveillance, and intelligence.”.

16 (b) NATO ASSISTANCE TO SUPPORT AMIS.—The
17 President shall instruct the United States Permanent
18 Representative to the North Atlantic Treaty Organization
19 (NATO) to use the voice, vote, and influence of the United
20 States at NATO to advocate NATO reinforcement of the
21 African Union Mission in Sudan (AMIS), upon the request
22 of the African Union, including but not limited to the pro-
23 vision of assets to dissuade and deter offensive air strikes
24 directed against civilians and humanitarian workers in the
25 Darfur region of Sudan and other logistical, transpor-

1 tation, communications, training, technical assistance,
 2 command and control, aerial surveillance, and intelligence
 3 support.

4 (c) DENIAL OF ENTRY AT UNITED STATES PORTS
 5 TO CERTAIN CARGO SHIPS OR OIL TANKERS.—Section
 6 6(b)(2)(C) of the Sudan Peace Act (Public Law 107–245;
 7 50 U.S.C. 1701 note) is amended by inserting “, including
 8 by prohibiting the entry at United States ports to cargo
 9 ships or oil tankers engaged in business or trade activities
 10 in the oil sector of Sudan or involved in the shipment of
 11 goods for use by the armed forces of Sudan,” after “access
 12 to oil revenues”.

13 (d) PROHIBITION ON ASSISTANCE TO COUNTRIES IN
 14 VIOLATION OF UNITED NATIONS SECURITY COUNCIL
 15 RESOLUTIONS 1556 AND 1591.—

16 (1) PROHIBITION.—United States assistance
 17 (other than humanitarian assistance) may not be
 18 provided to a country that is in violation of the em-
 19 bargo on military assistance with respect Sudan im-
 20 posed pursuant to United Nations Security Council
 21 Resolutions 1556 (July 30, 2004) and 1591 (March
 22 29, 2005).

23 (2) WAIVER.—The President may waive the ap-
 24 plication of paragraph (1) if the President deter-
 25 mines and certifies to the appropriate congressional

1 committees that it is in the national interest of the
2 United States to do so.

3 **SEC. 7. MULTILATERAL EFFORTS.**

4 The President shall direct the United States Perma-
5 nent Representative to the United Nations to use the voice
6 and vote of the United States to urge the adoption of a
7 resolution by the United Nations Security Council which—

8 (1) supports the expansion of the African Union
9 Mission in Sudan (AMIS) so that it achieves the
10 mandate, size, strength, and capacity needed to pro-
11 tect civilians and humanitarian operations, and dis-
12 suade and deter fighting and violence in the Darfur
13 region of Sudan, and urges member states of the
14 United Nations to accelerate political, material, fi-
15 nancial, and other assistance to the African Union
16 toward this end;

17 (2) reinforces efforts of the African Union to
18 negotiate peace talks between the Government of
19 Sudan, the Sudan Liberation Movement/Army
20 (SLM/A), the Justice and Equality Movement
21 (JEM), and associated armed groups in the Darfur
22 region, calls on the Government of Sudan, the SLM/
23 A, and the JEM to abide by their obligations under
24 the N'Djamena Ceasefire Agreement of April 8,
25 2004 and subsequent agreements, urges all parties

1 to engage in peace talks without preconditions and
2 seek to resolve the conflict, and strongly condemns
3 all attacks against humanitarian workers in the
4 Darfur region;

5 (3) imposes sanctions against the Government
6 of Sudan, including sanctions against individual
7 members of the Government of Sudan, and entities
8 controlled or owned by officials of the Government
9 of Sudan or the National Congress Party in Sudan;

10 (4) calls upon those member states of the
11 United Nations that continue to undermine efforts
12 to foster peace in Sudan by providing military assist-
13 ance and equipment to the Government of Sudan,
14 the SLM/A, the JEM, and associated armed groups
15 in the Darfur region in violation of the embargo on
16 such assistance and equipment, as called for in
17 United Nations Security Council Resolutions 1556
18 (July 30, 2004) and 1591 (March 29, 2005), to im-
19 mediately cease and desist; and

20 (5) acting under Article 5 of the Charter of the
21 United Nations, calls for suspension of the Govern-
22 ment of Sudan's rights and privileges of membership
23 by the General Assembly until such time as the Gov-
24 ernment of Sudan has honored pledges to cease at-
25 tacks upon civilians, demobilize the Janjaweed and

1 associated militias, and grant free and unfettered ac-
2 cess for deliveries of humanitarian assistance in the
3 Darfur region.

4 **SEC. 8. REPORTS.**

5 (a) REPORT ON SANCTIONS IN SUPPORT OF PEACE
6 IN DARFUR.—Section 8 of the Sudan Peace Act (Public
7 Law 107–245; 50 U.S.C. 1701 note) is amended—

8 (1) by redesignating subsection (c) as sub-
9 section (d); and

10 (2) by inserting after subsection (b) the fol-
11 lowing new subsection:

12 “(c) REPORT ON SANCTIONS IN SUPPORT OF PEACE
13 IN DARFUR.—Not later than 30 days after the date of
14 the enactment of the Darfur Peace and Accountability Act
15 of 2005, and in conjunction with reports required under
16 subsections (a) and (b) of this section thereafter, the Sec-
17 retary of State shall prepare and submit to the appro-
18 priate congressional committees a report regarding sanc-
19 tions imposed under subsections (a) through (d) of section
20 6 of the Comprehensive Peace in Sudan Act of 2004,
21 including—

22 “(1) a description of each sanction imposed
23 under such provisions of law; and

24 “(2) the name of the individual or entity sub-
25 ject to the sanction, if applicable.”.

1 (b) REPORT ON STABILIZATION IN SUDAN.—Not
2 later than 30 days after the date of enactment of this Act,
3 the Secretary of State shall submit to the appropriate con-
4 gressional committees a report, to be prepared in conjunc-
5 tion with the Secretary of Defense, on—

6 (1) efforts to deploy an African Union Mission
7 in Sudan (AMIS) with the size, strength and capac-
8 ity necessary to stabilize the Darfur region of Sudan
9 and protect civilians and humanitarian operations;

10 (2) the needs of AMIS to ensure success, in-
11 cluding in the areas of housing, transport, commu-
12 nications, equipment, technical assistance, training,
13 command and control, intelligence, and such assist-
14 ance as is necessary to dissuade and deter air at-
15 tacks directed against civilians and humanitarian
16 workers; and

17 (3) the current level of United States assistance
18 and other assistance provided to AMIS, and a re-
19 quest for additional United States assistance, if nec-
20 essary.

21 **SEC. 9. DEFINITION.**

22 (a) COMPREHENSIVE PEACE IN SUDAN ACT OF
23 2004.—Section 2(2) of the Comprehensive Peace in
24 Sudan Act of 2004 (50 U.S.C. 1701 note) is amended to
25 read as follows:

1 “(2) GOVERNMENT OF SUDAN.—

2 “(A) IN GENERAL.—The term ‘Govern-
3 ment of Sudan’ means the National Congress
4 Party, formerly known as the National Islamic
5 Front, government in Khartoum, Sudan, or any
6 successor government formed on or after the
7 date of the enactment of the Darfur Peace and
8 Accountability Act of 2005 (including the coal-
9 tion National Unity Government agreed upon in
10 the Comprehensive Peace Agreement for Sudan,
11 signed in Nairobi, Kenya on January 9, 2005),
12 except that such term does not include the Gov-
13 ernment of Southern Sudan.

14 “(B) OFFICIALS OF THE GOVERNMENT OF
15 SUDAN.—The term ‘Government of Sudan’,
16 when used with respect to an official of the
17 Government of Sudan, does not include an
18 individual—

19 “(i) who was not a member of such
20 government prior to July 1, 2005; or

21 “(ii) who is a member of the Govern-
22 ment of Southern Sudan.”.

23 (b) SUDAN PEACE ACT.—Section 12(b) of the Sudan
24 Peace Act (50 U.S.C. 1701 note) is amended to read as
25 follows:

1 “(b) GOVERNMENT OF SUDAN DEFINED.—In this
2 section, the term ‘Government of Sudan’ means the Na-
3 tional Congress Party, formerly known as the National Is-
4 lamic Front, government in Khartoum, Sudan, or any suc-
5 cessor government formed on or after the date of the en-
6 actment of the Darfur Peace and Accountability Act of
7 2005 (including the coalition National Unity Government
8 agreed upon in the Comprehensive Peace Agreement for
9 Sudan, signed in Nairobi, Kenya on January 9, 2005),
10 except that such term does not include the Government
11 of Southern Sudan. Such term, when used with respect
12 to an official of the Government of Sudan, does not in-
13 clude an individual who was not a member of such govern-
14 ment prior to July 1, 2005, or an individual who is a mem-
15 ber of the Government of Southern Sudan.”.

○

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3127
OFFERED BY MR. HYDE OF ILLINOIS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Darfur Peace and Accountability Act of 2005”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Findings.
- Sec. 4. Sense of Congress.
- Sec. 5. Sanctions in support of peace in Darfur.
- Sec. 6. Additional authorities to deter and suppress genocide in Darfur.
- Sec. 7. Multilateral efforts.
- Sec. 8. Continuation of restrictions.
- Sec. 9. Assistance efforts in Sudan.
- Sec. 10. Reports.
- Sec. 11. Rule of construction.

6 SEC. 2. DEFINITIONS.

7 In this Act:

8 (1) APPROPRIATE CONGRESSIONAL COMMIT-
9 TEES.—The term “appropriate congressional com-
10 mittees” means the Committee on International Re-
11 lations of the House of Representatives and the
12 Committee on Foreign Relations of the Senate.

1 (2) GOVERNMENT OF SUDAN.—

2 (A) IN GENERAL.—The term “Government
3 of Sudan” means the National Congress Party,
4 formerly known as the National Islamic Front,
5 led-government in Khartoum, Sudan, or any
6 successor government formed on or after the
7 date of the enactment of this Act (including the
8 coalition National Unity Government agreed
9 upon in the Comprehensive Peace Agreement
10 for Sudan), except that such term does not in-
11 clude the regional Government of Southern
12 Sudan.

13 (B) OFFICIALS OF THE GOVERNMENT OF
14 SUDAN.—The term “Government of Sudan”,
15 when used with respect to an official of the
16 Government of Sudan, does not include an
17 individual—

18 (i) who was not a member of such
19 government prior to July 1, 2005; or

20 (ii) who is a member of the regional
21 Government of Southern Sudan.

22 (3) COMPREHENSIVE PEACE AGREEMENT FOR
23 SUDAN.—The term “Comprehensive Peace Agree-
24 ment for Sudan” means the peace agreement signed
25 by the Government of Sudan and the Sudan Peo-

1 ple's Liberation Movement/Army (SPLM/A) in
2 Nairobi, Kenya, on January 9, 2005.

3 **SEC. 3. FINDINGS.**

4 Congress makes the following findings:

5 (1) On July 22, 2004, the House of Represent-
6 atives and the Senate declared that the atrocities oc-
7 curring in the Darfur region of Sudan are genocide.

8 (2) On September 9, 2004, Secretary of State
9 Colin L. Powell stated before the Committee on For-
10 eign Relations of the Senate, "genocide has been
11 committed in Darfur," and "the Government of
12 Sudan and the [Janjaweed] bear responsibility—and
13 genocide may still be occurring".

14 (3) On September 21, 2004, in an address be-
15 fore the United Nations General Assembly, Presi-
16 dent George W. Bush affirmed the Secretary of
17 State's finding and stated, "[a]t this hour, the world
18 is witnessing terrible suffering and horrible crimes in
19 the Darfur region of Sudan, crimes my government
20 has concluded are genocide".

21 (4) On July 30, 2004, the United Nations Se-
22 curity Council passed Security Council Resolution
23 1556, calling upon the Government of Sudan to dis-
24 arm the Janjaweed militias and to apprehend and
25 bring to justice Janjaweed leaders and their associ-

1 ates who have incited and carried out violations of
2 human rights and international humanitarian law,
3 and establishing a ban on the sale or supply of arms
4 and related materiel of all types, including the provi-
5 sion of related technical training or assistance, to all
6 nongovernmental entities and individuals, including
7 the Janjaweed.

8 (5) On September 18, 2004, the United Na-
9 tions Security Council passed Security Council Reso-
10 lution 1564, determining that the Government of
11 Sudan had failed to meet its obligations under Secu-
12 rity Council Resolution 1556, calling for a military
13 flight ban in and over the Darfur region, demanding
14 the names of Janjaweed militiamen disarmed and
15 arrested for verification, establishing an Inter-
16 national Commission of Inquiry on Darfur to inves-
17 tigate violations of international humanitarian and
18 human rights laws, and threatening sanctions should
19 the Government of Sudan fail to fully comply with
20 Security Council Resolutions 1556 and 1564, includ-
21 ing such actions as to affect Sudan's petroleum sec-
22 tor or individual members of the Government of
23 Sudan.

24 (6) The Report of the International Commis-
25 sion of Inquiry on Darfur, submitted to the United

1 Nations Secretary-General on January 25, 2005, es-
2 tablished that the “Government of the Sudan and
3 the Janjaweed are responsible for serious violations
4 of international human rights and humanitarian law
5 amounting to crimes under international law,” that
6 “these acts were conducted on a widespread and sys-
7 tematic basis, and therefore may amount to crimes
8 against humanity,” and that Sudanese officials and
9 other individuals may have acted with “genocidal in-
10 tent”.

11 (7) The Report of the International Commis-
12 sion of Inquiry on Darfur further notes that, pursu-
13 ant to its mandate and in the course of its work, the
14 Commission had collected information relating to in-
15 dividual perpetrators of acts constituting “violations
16 of international human rights law and international
17 humanitarian law, including crimes against human-
18 ity and war crimes” and that a sealed file containing
19 the names of those individual perpetrators had been
20 delivered to the United Nations Secretary-General.

21 (8) On March 24, 2005, the United Nations Se-
22 curity Council passed Security Council Resolution
23 1590, establishing the United Nations Mission in
24 Sudan (UNMIS), consisting of up to 10,000 military
25 personnel and 715 civilian police and tasked with

1 supporting implementation of the Comprehensive
2 Peace Agreement for Sudan and “closely and con-
3 tinuously liais[ing] and coordinat[ing] at all levels
4 with the African Union Mission in Sudan (AMIS)
5 with a view towards expeditiously reinforcing the ef-
6 fort to foster peace in Darfur”.

7 (9) On March 29, 2005, the United Nations Se-
8 curity Council passed Security Council Resolution
9 1591, extending the military embargo established by
10 Security Council Resolution 1556 to all the parties
11 to the N’djamena Ceasefire Agreement of April 8,
12 2004, and any other belligerents in the states of
13 North Darfur, South Darfur, and West Darfur, call-
14 ing for an asset freeze and travel ban against those
15 individuals who impede the peace process, constitute
16 a threat to stability in Darfur and the region, com-
17 mit violations of international humanitarian or
18 human rights law or other atrocities, are responsible
19 for offensive military overflights, or violate the mili-
20 tary embargo, and establishing a Committee of the
21 Security Council and a Panel of Experts to assist in
22 monitoring compliance with Security Council Resolu-
23 tions 1556 and 1591.

24 (10) On March 31, 2005, the United Nations
25 Security Council passed Security Council Resolution

1 1593, referring the situation in Darfur since July 1,
2 2002, to the prosecutor of the International Crimi-
3 nal Court and calling on the Government of Sudan
4 and all parties to the conflict to cooperate fully with
5 the Court.

6 (11) In remarks before the G-8 Summit on
7 June 30, 2005, President Bush reconfirmed that
8 “the violence in Darfur is clearly genocide” and “the
9 human cost is beyond calculation”.

10 (12) On July 30, 2005, Dr. John Garang de
11 Mabior, the newly appointed Vice President of
12 Sudan and the leader of the Sudan People’s Libera-
13 tion Movement/Army (SPLM/A) for the past 21
14 years, was killed in a tragic helicopter crash in
15 southern Sudan, sparking riots in Khartoum and
16 challenging the commitment of all Sudanese to the
17 Comprehensive Peace Agreement for Sudan.

18 (13) Since 1993, the Secretary of State has de-
19 termined that the Republic of Sudan is a country
20 which has repeatedly provided support for acts of
21 international terrorism and, pursuant to section 6(j)
22 of the Export Administration Act of 1979, section
23 40 of the Arms Export Control Act, and section
24 620A of the Foreign Assistance Act of 1961, des-
25 ignated Sudan as a State Sponsor of Terrorism,

1 thereby restricting United States assistance, defense
2 exports and sales, and financial and other trans-
3 actions with the Government of Sudan.

4 **SEC. 4. SENSE OF CONGRESS.**

5 It is the sense of Congress that—

6 (1) the genocide unfolding in the Darfur region
7 of Sudan is characterized by acts of terrorism and
8 atrocities directed against civilians, including mass
9 murder, rape, and sexual violence committed by the
10 Janjaweed and associated militias with the com-
11 plicity and support of the National Congress Party-
12 led faction of the Government of Sudan;

13 (2) the Secretary of State should designate the
14 Janjaweed militia as a foreign terrorist organization
15 pursuant to section 219 of the Immigration and Na-
16 tionality Act;

17 (3) all parties to the conflict in the Darfur re-
18 gion have continued to violate the N'djamena
19 Ceasefire Agreement of April 8, 2004, and the
20 Abuja Protocols of November 9, 2004, and violence
21 against civilians, humanitarian aid workers, and per-
22 sonnel of the African Union Mission in Sudan
23 (AMIS) is increasing;

24 (4) the African Union should rapidly expand
25 the size and amend the mandate of the African

1 Union Mission in Sudan to authorize such action as
2 may be necessary to protect civilians and humani-
3 tarian operations, and deter violence in the Darfur
4 region without delay;

5 (5) the international community, including the
6 United Nations, the North Atlantic Treaty Organi-
7 zation (NATO), the European Union, and the
8 United States, should immediately act to mobilize
9 sufficient political, military, and financial resources
10 to support the expansion of the African Union Mis-
11 sion in Sudan so that it achieves the size, strength,
12 and capacity necessary for protecting civilians and
13 humanitarian operations, and ending the continued
14 violence in the Darfur region;

15 (6) if an expanded and reinforced African
16 Union Mission in Sudan fails to stop genocide in the
17 Darfur region, the international community should
18 take additional, dispositive measures to prevent and
19 suppress acts of genocide in the Darfur region;

20 (7) acting under Article 5 of the Charter of the
21 United Nations, the United Nations Security Coun-
22 cil should call for suspension of the Government of
23 Sudan's rights and privileges of membership by the
24 General Assembly until such time as the Govern-
25 ment of Sudan has honored pledges to cease attacks

1 upon civilians, demobilize and demilitarize the
2 Janjaweed and associated militias, and grant free
3 and unfettered access for deliveries of humanitarian
4 assistance in the Darfur region;

5 (8) the President should use all necessary and
6 appropriate diplomatic means to ensure the full dis-
7 charge of the responsibilities of the Committee of
8 the United Nations Security Council and the Panel
9 of Experts established pursuant to section 3(a) of
10 Security Council Resolution 1591 (March 29, 2005);

11 (9) the United States should not provide assist-
12 ance to the Government of Sudan, other than assist-
13 ance necessary for the implementation of the Com-
14 prehensive Peace Agreement for Sudan, the support
15 of the regional Government of Southern Sudan and
16 marginalized areas in northern Sudan (including the
17 Nuba Mountains, Southern Blue Nile, Abyei, East-
18 ern Sudan (Beja), Darfur, and Nubia), as well as
19 marginalized peoples in and around Khartoum, or
20 for humanitarian purposes in Sudan, until such time
21 as the Government of Sudan has honored pledges to
22 cease attacks upon civilians, demobilize and demili-
23 tarize the Janjaweed and associated militias, grant
24 free and unfettered access for deliveries of humani-
25 tarian assistance in the Darfur region, and allow for

1 the safe and voluntary return of refugees and inter-
2 nally displaced persons;

3 (10) the President should seek to assist mem-
4 bers of the Sudanese diaspora in the United States
5 by establishing a student loan forgiveness program
6 for those individuals who commit to return to south-
7 ern Sudan for a period of not less than five years
8 for the purpose of contributing professional skills
9 needed for the reconstruction of southern Sudan;

10 (11) the President should appoint a Presi-
11 dential Envoy for Sudan with appropriate resources
12 and a clear mandate to provide stewardship of ef-
13 forts to implement the Comprehensive Peace Agree-
14 ment for Sudan, seek ways to bring stability and
15 peace to the Darfur region, address instability else-
16 where in Sudan and northern Uganda, and pursue
17 a truly comprehensive peace throughout the region;

18 (12) to achieve the goals specified in paragraph
19 (10) and to further promote human rights and civil
20 liberties, build democracy, and strengthen civil soci-
21 ety, the Presidential Envoy for Sudan should be em-
22 powered to promote and encourage the exchange of
23 individuals pursuant to educational and cultural pro-
24 grams, including programs funded by the Govern-
25 ment of the United States;

1 (13) the international community should
2 strongly condemn attacks against humanitarian
3 workers and demand that all armed groups in the
4 Darfur region, including the forces of the Govern-
5 ment of Sudan, the Janjaweed, associated militias,
6 the Sudan Liberation Movement/Army (SLM/A), the
7 Justice and Equality Movement (JEM), and all
8 other armed groups refrain from such attacks;

9 (14) the United States should fully support the
10 Comprehensive Peace Agreement for Sudan and
11 urge rapid implementation of its terms; and

12 (15) the new leadership of the Sudan People's
13 Liberation Movement (SPLM) should—

14 (A) seek to transform the SPLM into an
15 inclusive, transparent, and democratic body;

16 (B) reaffirm the commitment of the SPLM
17 to bringing peace not only to southern Sudan,
18 but also to the Darfur region, eastern Sudan,
19 and northern Uganda; and

20 (C) remain united in the face of efforts to
21 undermine the SPLM.

22 **SEC. 5. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.**

23 (a) BLOCKING OF ASSETS AND RESTRICTION ON
24 VISAS.—Section 6 of the Comprehensive Peace in Sudan

1 Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note)
2 is amended—

3 (1) in the heading of subsection (b), by insert-
4 ing “OF APPROPRIATE SENIOR OFFICIALS OF THE
5 SUDANESE GOVERNMENT” after “ASSETS”;

6 (2) by redesignating subsections (c) through (e)
7 as subsections (d) through (f), respectively; and

8 (3) by inserting after subsection (b) the fol-
9 lowing new subsection:

10 “(c) BLOCKING OF ASSETS AND RESTRICTION ON
11 VISAS OF CERTAIN INDIVIDUALS IDENTIFIED BY THE
12 PRESIDENT.—

13 “(1) BLOCKING OF ASSETS.—Beginning on the
14 date that is 30 days after the date of the enactment
15 of the Darfur Peace and Accountability Act of 2005,
16 and in the interest of contributing to peace in
17 Sudan, the President shall, consistent with the au-
18 thorities granted in the International Emergency
19 Economic Powers Act (50 U.S.C. 1701 et seq.),
20 block the assets of any individual who the President
21 determines is complicit in, or responsible for, acts of
22 genocide, war crimes, or crimes against humanity in
23 Darfur, including the family members or any associ-
24 ates of such individual to whom assets or property

1 of such individual was transferred on or after July
2 1, 2002.

3 “(2) RESTRICTION ON VISAS.—Beginning on
4 the date that is 30 days after the date of the enact-
5 ment of the Darfur Peace and Accountability Act of
6 2005, and in the interest of contributing to peace in
7 Sudan, the President shall deny visas and entry to
8 any individual who the President determines is
9 complicit in, or responsible for, acts of genocide, war
10 crimes, or crimes against humanity in Darfur, in-
11 cluding the family members or any associates of
12 such individual to whom assets or property of such
13 individual was transferred on or after July 1,
14 2002.”.

15 (b) WAIVER.—Section 6(d) of the Comprehensive
16 Peace in Sudan Act of 2004 (as redesignated by sub-
17 section (a)) is amended by adding at the end the following
18 new sentence: “The President may waive the application
19 of paragraph (1) or (2) of subsection (c) with respect to
20 an individual if the President determines that such a waiv-
21 er is in the national interests of the United States and,
22 prior to exercising the waiver, transmits to the appropriate
23 congressional committees a notification which includes the
24 name of the individual and the reasons for the waiver.”.

1 (c) SANCTIONS AGAINST CERTAIN JANJAWEEED COM-
2 MANDERS AND COORDINATORS.—The President should
3 immediately consider imposing the sanctions described in
4 section 6(c) of the Comprehensive Peace in Sudan Act of
5 2004 (as added by subsection (a)) against the Janjaweed
6 commanders and coordinators identified by the former
7 United States Ambassador-at-Large for War Crimes be-
8 fore the Subcommittee on Africa of the House Inter-
9 national Relations Committee on June 24, 2004.

10 **SEC. 6. ADDITIONAL AUTHORITIES TO DETER AND SUP-**
11 **PRESS GENOCIDE IN DARFUR.**

12 (a) UNITED STATES ASSISTANCE TO SUPPORT
13 AMIS.—Section 7 of the Comprehensive Peace in Sudan
14 Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note)
15 is amended—

16 (1) by striking “Notwithstanding” and insert-
17 ing “(a) GENERAL ASSISTANCE.—Notwithstanding”;
18 and

19 (2) by adding at the end the following new sub-
20 section:

21 “(b) ASSISTANCE TO SUPPORT AMIS.—Notwith-
22 standing any other provision of law, the President is au-
23 thorized to provide assistance, on such terms and condi-
24 tions as the President may determine and in consultation
25 with the appropriate congressional committees, to rein-

1 force the deployment and operations of an expanded Afri-
2 can Union Mission in Sudan (AMIS) with the mandate,
3 size, strength, and capacity to protect civilians and hu-
4 manitarian operations, stabilize the Darfur region of
5 Sudan and dissuade and deter air attacks directed against
6 civilians and humanitarian workers, including but not lim-
7 ited to providing assistance in the areas of logistics, trans-
8 port, communications, materiel support, technical assist-
9 ance, training, command and control, aerial surveillance,
10 and intelligence.”.

11 (b) NATO ASSISTANCE TO SUPPORT AMIS.—The
12 President should instruct the United States Permanent
13 Representative to the North Atlantic Treaty Organization
14 (NATO) to use the voice, vote, and influence of the United
15 States at NATO to advocate NATO reinforcement of the
16 African Union Mission in Sudan (AMIS), upon the request
17 of the African Union, including but not limited to the pro-
18 vision of assets to dissuade and deter offensive air strikes
19 directed against civilians and humanitarian workers in the
20 Darfur region of Sudan and other logistical, transpor-
21 tation, communications, training, technical assistance,
22 command and control, aerial surveillance, and intelligence
23 support.

24 (c) DENIAL OF ENTRY AT UNITED STATES PORTS
25 TO CERTAIN CARGO SHIPS OR OIL TANKERS.—

1 (1) IN GENERAL.—The President should take
2 all necessary and appropriate steps to deny the Gov-
3 ernment of Sudan access to oil revenues, including
4 by prohibiting entry at United States ports to cargo
5 ships or oil tankers engaged in business or trade ac-
6 tivities in the oil sector of Sudan or involved in the
7 shipment of goods for use by the armed forces of
8 Sudan until such time as the Government of Sudan
9 has honored its commitments to cease attacks on ci-
10 vilians, demobilize and demilitarize the Janjaweed
11 and associated militias, grant free and unfettered ac-
12 cess for deliveries of humanitarian assistance, and
13 allow for the safe and voluntary return of refugees
14 and internally displaced persons.

15 (2) EXCEPTION.—Paragraph (1) shall not
16 apply with respect to cargo ships or oil tankers in-
17 volved in an internationally-recognized demobiliza-
18 tion program or the shipment of non-lethal assist-
19 ance necessary to carry out elements of the Com-
20 prehensive Peace Agreement for Sudan.

21 (d) PROHIBITION ON ASSISTANCE TO COUNTRIES IN
22 VIOLATION OF UNITED NATIONS SECURITY COUNCIL
23 RESOLUTIONS 1556 AND 1591.—

24 (1) PROHIBITION.—Amounts made available to
25 carry out the Foreign Assistance Act of 1961 (22

1 U.S.C. 2151 et seq.) may not be used to provide as-
2 sistance (other than humanitarian assistance) to the
3 government of a country that is in violation of the
4 embargo on military assistance with respect to
5 Sudan imposed pursuant to United Nations Security
6 Council Resolutions 1556 (July 30, 2004) and 1591
7 (March 29, 2005).

8 (2) WAIVER.—The President may waive the ap-
9 plication of paragraph (1) if the President deter-
10 mines and certifies to the appropriate congressional
11 committees that it is in the national interests of the
12 United States to do so.

13 **SEC. 7. MULTILATERAL EFFORTS.**

14 The President shall direct the United States Perma-
15 nent Representative to the United Nations to use the voice
16 and vote of the United States to urge the adoption of a
17 resolution by the United Nations Security Council that—

18 (1) supports the expansion of the African Union
19 Mission in Sudan (AMIS) so that it achieves the
20 mandate, size, strength, and capacity needed to pro-
21 tect civilians and humanitarian operations, and dis-
22 suade and deter fighting and violence in the Darfur
23 region of Sudan, and urges member states of the
24 United Nations to accelerate political, material, fi-

1 nancial, and other assistance to the African Union
2 toward this end;

3 (2) reinforces efforts of the African Union to
4 negotiate peace talks between the Government of
5 Sudan, the Sudan Liberation Movement/Army
6 (SLM/A), the Justice and Equality Movement
7 (JEM), and associated armed groups in the Darfur
8 region, calls on the Government of Sudan, the SLM/
9 A, and the JEM to abide by their obligations under
10 the N'Djamena Ceasefire Agreement of April 8,
11 2004 and subsequent agreements, urges all parties
12 to engage in peace talks without preconditions and
13 seek to resolve the conflict, and strongly condemns
14 all attacks against humanitarian workers and Afri-
15 can Union personnel in the Darfur region;

16 (3) imposes sanctions against the Government
17 of Sudan, including sanctions against individual
18 members of the Government of Sudan, and entities
19 controlled or owned by officials of the Government
20 of Sudan or the National Congress Party in Sudan
21 until such time as the Government of Sudan has
22 honored its commitments to cease attacks on civil-
23 ians, demobilize and demilitarize the Janjaweed and
24 associated militias, grant free and unfettered access
25 for deliveries of humanitarian assistance, and allow

1 for the safe and voluntary return of refugees and in-
2 ternally displaced persons;

3 (4) extends the military embargo established by
4 United Nations Security Council Resolutions 1556
5 (July 30, 2004) and 1591 (March 29, 2005) to in-
6 clude a total prohibition on the sale or supply of of-
7 fensive military equipment to the Government of
8 Sudan, except for use in an internationally-recog-
9 nized demobilization program or for non-lethal as-
10 sistance necessary to carry out elements of the Com-
11 prehensive Peace Agreement for Sudan; and

12 (5) calls upon those member states of the
13 United Nations that continue to undermine efforts
14 to foster peace in Sudan by providing military assist-
15 ance and equipment to the Government of Sudan,
16 the SLM/A, the JEM, and associated armed groups
17 in the Darfur region in violation of the embargo on
18 such assistance and equipment, as called for in
19 United Nations Security Council Resolutions 1556
20 and 1591, to immediately cease and desist.

21 **SEC. 8. CONTINUATION OF RESTRICTIONS.**

22 (a) CONTINUATION OF RESTRICTIONS.—Restrictions
23 against the Government of Sudan that were imposed pur-
24 suant to Executive Order 13067 of November 3, 1997 (62
25 Federal Register 59989), title III and sections 508, 512,

1 527, and 569 of the Foreign Operations, Export Finance-
2 ing, and Related Programs Appropriations Act, 2006, or
3 any other similar provision of law, shall remain in effect
4 and shall not be lifted pursuant to such provisions of law
5 until the President transmits to the appropriate congres-
6 sional committees a certification that the Government of
7 Sudan is acting in good faith to—

8 (1) peacefully resolve the crisis in the Darfur
9 region of Sudan;

10 (2) disarm, demobilize, and demilitarize the
11 Janjaweed and all government-allied militias;

12 (3) adhere to United Nations Security Council
13 Resolutions 1556 (2004), 1564 (2004), 1591
14 (2005), and 1593 (2005);

15 (4) negotiate a peaceful resolution to the crisis
16 in eastern Sudan;

17 (5) fully cooperate with efforts to disarm, de-
18 mobilize, and deny safe haven to members of the
19 Lords Resistance Army; and

20 (6) fully implement the Comprehensive Peace
21 Agreement for Sudan without manipulation or delay,
22 including by—

23 (A) implementing the recommendations of
24 the Abyei Commission Report;

1 (B) establishing other appropriate commis-
2 sions and implementing and adhering to the
3 recommendations of such commissions con-
4 sistent with the terms of the Comprehensive
5 Peace Agreement for Sudan;

6 (C) adhering to the terms of the Wealth
7 Sharing Agreement; and

8 (D) withdrawing government forces from
9 southern Sudan consistent with the terms of
10 the Comprehensive Peace Agreement for Sudan.

11 (b) WAIVER.—The President may waive the applica-
12 tion of subsection (a) if the President determines and cer-
13 tifies to the appropriate congressional committees that it
14 is in the national interests of the United States to do so.

15 **SEC. 9. ASSISTANCE EFFORTS IN SUDAN.**

16 (a) ADDITIONAL AUTHORITIES.—Section 501(a) of
17 the Assistance for International Malaria Control Act (50
18 U.S.C. 1701 note) is amended—

19 (1) by striking “Notwithstanding any other pro-
20 vision of law” and inserting the following:

21 “(1) IN GENERAL.—Notwithstanding any other
22 provision of law”;

23 (2) by inserting “civil administrations,” after
24 “indigenous groups,”;

1 (3) by striking “areas outside of control of the
2 Government of Sudan” and inserting “southern
3 Sudan, southern Kordofan/Nuba Mountains State,
4 Blue Nile State, and Abyei”;

5 (4) by inserting at the end before the period the
6 following: “, including the Comprehensive Peace
7 Agreement for Sudan”; and

8 (5) by adding at the end the following new
9 paragraph:

10 “(2) CONGRESSIONAL NOTIFICATION.—

11 “(A) IN GENERAL.—Assistance may not be
12 obligated under this subsection until 15 days
13 after the date on which the President has pro-
14 vided notice thereof to the congressional com-
15 mittees specified in section 634A of the Foreign
16 Assistance Act of 1961 (22 U.S.C. 2394–1) in
17 accordance with the procedures applicable to re-
18 programming notifications under such section.

19 “(B) RULE OF CONSTRUCTION.—The noti-
20 fication requirement of subparagraph (A) shall
21 not apply in the case of assistance subject to
22 notification in accordance with section 634A of
23 the Foreign Assistance Act of 1961 pursuant to
24 any provision of an Act making appropriations

1 for foreign operations, export financing, and re-
2 lated programs.”.

3 (b) EXCEPTION TO PROHIBITIONS IN EXECUTIVE
4 ORDER NO. 13067.—Section 501(b) of the Assistance for
5 International Malaria Control Act (50 U.S.C. 1701 note)
6 is amended—

7 (1) in the heading, by striking “EXPORT PRO-
8 HIBITIONS” and inserting “PROHIBITIONS IN EXEC-
9 UTIVE ORDER NO. 13067”;

10 (2) by striking “any export from an area in
11 Sudan outside of control of the Government of
12 Sudan, or to any necessary transaction directly re-
13 lated to that export” and inserting “activities or re-
14 lated transactions with respect to southern Sudan,
15 southern Kordofan/Nuba Mountains State, Blue Nile
16 State, or Abyei”; and

17 (3) by striking “the export or related trans-
18 action” and all that follows and inserting “such ac-
19 tivities or related transactions would directly benefit
20 the economic recovery and development of those
21 areas and people.”.

22 **SEC. 10. REPORTS.**

23 (a) REPORT ON AFRICAN UNION MISSION IN SUDAN
24 (AMIS).—Section 8 of the Sudan Peace Act (Public Law
25 107–245; 50 U.S.C. 1701 note) is amended—

1 (1) by redesignating subsection (c) as sub-
2 section (d); and

3 (2) by inserting after subsection (b) the fol-
4 lowing new subsection:

5 “(c) REPORT ON AFRICAN UNION MISSION IN SUDAN
6 (AMIS).—In conjunction with reports required under sub-
7 sections (a) and (b) of this section, the Secretary of State
8 shall submit to the appropriate congressional committees
9 a report, to be prepared in conjunction with the Secretary
10 of Defense, on—

11 “(1) efforts to fully deploy the African Union
12 Mission in Sudan (AMIS) with the size, strength,
13 and capacity necessary to stabilize the Darfur region
14 of Sudan and protect civilians and humanitarian op-
15 erations;

16 “(2) the needs of AMIS to ensure success, in-
17 cluding in the areas of housing, transport, commu-
18 nications, equipment, technical assistance, training,
19 command and control, intelligence, and such assist-
20 ance as is necessary to dissuade and deter attacks,
21 including by air, directed against civilians and hu-
22 manitarian operations;

23 “(3) the current level of United States assist-
24 ance and other assistance provided to AMIS, and a

1 request for additional United States assistance, if
2 necessary;

3 “(4) the status of North Atlantic Treaty Orga-
4 nization (NATO) plans and assistance to support
5 AMIS; and

6 “(5) the performance of AMIS in carrying out
7 its mission in the Darfur region.”.

8 (b) REPORT ON SANCTIONS IN SUPPORT OF PEACE
9 IN DARFUR.—Section 8 of the Sudan Peace Act (Public
10 Law 107–245; 50 U.S.C. 1701 note), as amended by sub-
11 section (a), is further amended—

12 (1) by redesignating subsection (d) (as redesign-
13 nated) as subsection (e); and

14 (2) by inserting after subsection (c) the fol-
15 lowing new subsection:

16 “(d) REPORT ON SANCTIONS IN SUPPORT OF PEACE
17 IN DARFUR.—In conjunction with reports required under
18 subsections (a), (b), and (c) of this section, the Secretary
19 of State shall submit to the appropriate congressional
20 committees a report regarding sanctions imposed under
21 subsections (a) through (d) of section 6 of the Comprehen-
22 sive Peace in Sudan Act of 2004, including—

23 “(1) a description of each sanction imposed
24 under such provisions of law; and

1 “(2) the name of the individual or entity sub-
2 ject to the sanction, if applicable.”.

3 **SEC. 11. RULE OF CONSTRUCTION.**

4 Nothing in this Act (or any amendment made by this
5 Act) or any other provision of law shall be construed to
6 preempt any State law that prohibits investment of State
7 funds, including State pension funds, in or relating to the
8 Republic of the Sudan.

[The prepared statement of Mr. Hyde follows:]

PREPARED STATEMENT OF THE HONORABLE HENRY J. HYDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS, AND CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS

Ladies and gentleman, despite eight rounds of peace talks, the deployment more than to 6,000 African Union troops and monitors, the passage of six United Nations Security Council Resolutions, and declarations of genocide by the United States Congress and the Administration of President Bush, the crisis in the Darfur region of western Sudan continues.

No one knows precisely how many Darfurians have perished as a result of the genocide, but estimates range from 180,000 to 400,000, and as many as 10,000 people continue to die each month. Over two million Darfurians have been forced from their homes, entire villages have been looted and destroyed, and countless men, women and children have been victims of abduction, torture, and rape.

It is against this backdrop that the Darfur Peace and Accountability Act, H.R. 3127, was introduced last June. As introduced, the "DPAA" attempts to expand upon the existing Comprehensive Peace in Sudan Act of 2004 (the CPISA), by authorizing specific measures to promote peace and accountability in Darfur.

First, H.R. 3127 confers upon the President, notwithstanding any other provision of law, the authority to provide assistance to reinforce the deployment and operations of an expanded African Union Mission in Sudan (AMIS), with the mandate, size, strength and capacity to protect civilians and humanitarian operations and stabilize Darfur. Further, the bill calls on the international community, including the UN, the European Union (EU), and the North Atlantic Treaty Organization (NATO), to immediately mobilize political, military and financial resources to support the expansion of the African Mission in Sudan, and directs the U.S. Permanent Representative to NATO to advocate for NATO reinforcement of such an expanded African Union mission in keeping with current Administration policy.

Next, the bill amends the Comprehensive Peace in Sudan Act to impose targeted sanctions against individual perpetrators of genocide, war crimes, or crimes against humanity in Darfur, rather than sanctioning the new Government of National Unity in general.

H.R. 3127 also prohibits the provision of non-humanitarian U.S. assistance to nations violating the military and arms embargo imposed pursuant to UN Security Council resolutions 1556 and 1591, calls for the suspension of Sudan's membership in the United Nations, and encourages President Bush to deny entry at U.S. ports to certain Sudanese cargo ships or oil tankers if the Government of Sudan fails to take specified measures in Darfur.

Though the core principles of the bill, as introduced, remain unchanged, the substitute amendment before you reflects the outcome of intense bipartisan, bicameral negotiations over the past eight months. The substitute amendment includes the following notable changes:

- It adds a new Section 5(c) to encourage the imposition of targeted sanctions against Janjaweed commanders and coordinators;
- It modifies Section 6(c) with regard to the denial of entry at U.S. ports to Sudanese cargo ships and oil tankers to create an exception for vessels involved in an internationally-recognized demobilization program or the shipment of non-lethal assistance necessary for implementation of the Comprehensive Peace Agreement;
- It adds a new Section 7(4) to call for the extension of the military embargo established pursuant to UN Security Council Resolutions 1556 (July 30, 2004) and 1591 (March 29, 2005) to include the Government of Sudan;
- It adds a new Section 8, regarding the Continuation of Restrictions, such that restrictions imposed against Sudan pursuant to Executive Order 13067 and/or the Foreign Operations, Export Financing, and Related Programs Act of 2006, shall remain in effect and shall not be lifted until the President certifies to Congress that the Government of Sudan is acting in good faith to: (1) peacefully resolve the crisis in Darfur; (2) disarm, demobilize and demilitarize the Janjaweed; (3) adhere to UN Security Council Resolutions; (4) negotiate a peaceful resolution to the crisis in eastern Sudan; (5) cooperate with efforts to disarm and deny safe haven to the Lord's Resistance Army; and (6) fully implement the terms of the Comprehensive Peace Agreement;
- It adds a new Section 9, to amend the International Malaria Control Act (50 USC 170 note), thereby clarifying the definition of "areas outside the control

of the Government of Sudan” and specifying notification requirements for assistance provided by the United States Government to Sudan pursuant to that Act ; and

- Adds a new Section 11, regarding the preemption of State laws that prohibit investment of State pension funds in Sudan.

Again, this substitute amendment is the result of eight months of negotiation and represents a truly bipartisan compromise. I strongly encourage your support of this amendment and the underlying bill so that we can, at long last, get this important piece of legislation to the House Floor and resolve any remaining differences with the Senate.

Chairman HYDE. The Chair will recognize Mr. Payne to strike the last words.

Mr. PAYNE. Thank you very much, Mr. Chairman, and let me express my appreciation for your allowing a markup of H.R. 3127, The Darfur Peace and Accountability Act. I want to thank you for this very important markup.

We had hoped to get this to this point many months ago, as the situation in Darfur continues to worsen, and the process has been long and hard, but I am glad that we are finally seeing the bill before this Committee today because genocide, which is orchestrated by the Government of Sudan and its leadership and its proxies, continues unabated in Darfur. The international community has failed to act decisively. Collectively, the UN, NATO, EU have not really been able to stem this brutal tide that has been going on for several years.

If we had prevented genocide in Armenia in 1915 or had condemned it, we probably would not have had the Holocaust in Nazi Germany in the thirties, nor the Cambodian situation or the Rwanda genocide. So we have to act, and I am pleased that for the first time the genocide was going on, this U.S. Congress declared genocide in July 2004. However, more must happen.

The substitute which we will vote on this morning is the result of months of negotiations and compromise. I am pleased to say that several Democratic revisions, we appreciate, were added to the bill with the cooperation of Chairman Hyde and his staff, particularly clearly defining the Government of Sudan and providing benchmarks for the lifting of sanctions, which include ending the genocide in Darfur, disarming the Janjaweed, disarming and ceasing to give safe haven to the northern Ugandan terrorist group, The Lord’s Resistance Army, which is being protected by the Government of Sudan, and fully implementing the comprehensive peace agreement between the North and the South, the war that has gone on for 20 years, which has displaced 4 million people in the South, and 2 million have died as a result of that conflict.

I want to thank my colleagues on the Subcommittee, particularly Ms. Lee and Ms. McCollum, for their contributions to the bill. These include language protecting the states from lawsuits for divesting state pension funds from Sudan, which New Jersey, Illinois, and California is considering, but those two states have passed it already, and also the Congress language designating the Janjaweed as a foreign terrorist organization.

I would also like to thank Representatives Watson, Meeks, and Mr. Tancredo for their close involvement during the negotiations. I would also like to indicate, although not on this Committee, Mr.

Wolf has been a true warrior in the problems of Sudan for decades, and I would certainly like to express my appreciation to him.

I have some lingering questions on certain provisions. The main question was whether the exemption we provided to sanctions in our Executive Order 13067 for the South and the marginalized areas applies to both exports and imports, the way it is written. We received assurances from Chairman Hyde's office that this was the case, and we take assurances at face value that, indeed, it is both imports and exports, which is a very important technicality.

Again, this day was a long time coming, but I am glad that we are finally marking up this bill. We must hold accountable those persons who are responsible for genocide at all levels, especially at the highest level, in the National Congress Party, to ensure that they are not free to commit these atrocities again. We think this is a first step in the right direction.

High school students, college students, religious groups, state governments, people are expressing their indignation that we cannot allow genocide to continue, and so we hope that this will move the Government of Sudan to act responsibly, but if it does not, I think we need to look at additional legislation with no-fly zones, with perhaps combat planes to ensure that the Government of Sudan does not continue to use its gun ships and planes to kill and maim people and that we would also hope to see an increase in a more robust UN-NATO organization under the leadership of the African Union, and we have to bring the perpetrators of the injustice to justice. That is something that must be done.

Thank you, Mr. Chairman. I appreciate the opportunity to speak on this bill.

Chairman HYDE. Thank you, Mr. Payne. The Chair will recognize two more Members for short remarks, and then we move to the hearing on Iran. Mr. Chris Smith of New Jersey.

Mr. SMITH OF NEW JERSEY. Thank you very much, Mr. Chairman. I want to thank you, Chairman Hyde, and Ranking Member Payne for their efforts in helping to draft H.R. 3127, as well as my staff, Greg Simpkins, who did yeoman's work on ensuring that the language really fit the compelling needs of people who are facing genocide in Darfur.

There was some real flexibility on the part of several Members of our Subcommittee and the Full Committee on making changes in the bill. As you know, Mr. Chairman, we marked this bill up last July, and there have been many changes on the ground in Darfur, and we have tried to accommodate those, and one of those is calling on the President to immediately consider imposing sanctions against the Janjaweed commanders and their coordinators who are identified by the former Ambassador-at-Large for War Crimes for their terrible misdeeds that they have committed. And, of course, this legislation, at the core of it is the amending of the Comprehensive Peace Act with Sudan of 2004 to block the assets and to restrict the travel of any individual whom the President has determined is responsible, whether by commission or omission, for acts of genocide, war crimes, or crimes against humanity in the Darfur region.

I would just point out to my colleagues that Greg Simpkins and I did visit Darfur last August. We went to Komo camp. We went

to the other camp called Mukjar, and it was so clear to us that people were within a kilometer of being apprehended, in the case of the women, raped or murdered, as well as the men. That is how clear and present the danger was and continues to be for the people of Darfur.

I would point out to my colleagues that we plan on a trip, beginning on April 17, and I would invite any Member of the Subcommittee or Full Committee to join us, to Darfur, to Juba, and to Khartoum, and we hope to meet with President Bashir. I met with him last August, again, and had a very, very contentious meeting. This is a man who, regrettably and sadly, has turned a blind eye to the international community as we have raised issues, first in the south of Sudan, where some 2 million people have been killed, and now in Darfur, where something on the order of 400,000 people have been killed.

I would ask unanimous consent that a full statement that I have prepared, Mr. Chairman, be made a part of the record. It is a very good bill. It does not do everything, but it is a very, very good step in the right direction. Thank you for your authorship.

Chairman HYDE. Without objection, so ordered.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND VICE CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS

I'd like to thank Chairman Hyde for his leadership in drafting and offering this legislation, for his graciousness and flexibility in negotiations with fellow legislators on alterations to this bill, and in his willingness to find creative ways to get HR 3127 passed and enacted into law.

This House has devoted a great deal of time to addressing the needs of suffering people in Sudan over the years. We've held hearings on the civil war, slavery, and genocide in Darfur. We've visited Sudan to speak with the government, met with various groups fighting the government, and supported humanitarian organizations trying desperately to meet the critical and growing needs of the Sudanese people. Most recently, we've focused on supporting the African Union force that has tried heroically to address the rampant violence in Darfur.

Sudan presents policymakers with a complex set of priorities. Both the Administration and the Congress concentrated a great deal of its attention on ending the North-South civil war, and our efforts were successful in not only concluding the fighting, but also in facilitating the Comprehensive Peace Agreement that includes a revenue provision for sharing the profits from resources with the Southern Sudanese.

That issue of resource allocation was part of the trigger for the fighting in Darfur, but was only one of the causes of the conflict. The Darfur conflict also has its roots in religious, ethnic and economic differences between the people of Darfur and the government in Khartoum. The conflict is based on recent political developments in other parts of Sudan, but it also is based on historic conflicts between nomads and farmers. The two rebel movements, both of which are splintering, are terrorizing the population just as much as the Janjaweed. Add to their ranks rebels from Chad, and tribesmen engaged in localized conflicts and bandits. There are members of the National Congress Party in the Sudanese government who are guilty of complicity in genocide, but that government also includes members of the Sudanese Peoples Liberation Movement, who joined the government as part of the peace agreement last year.

In addressing this complex situation, our Committee members have had to adapt to the changing circumstances in updating H.R. 3127. However, we must keep in mind that this bill was not designed to meet all possible circumstances. The main intent of this legislation is to punish those Sudanese government officials who were involved in the genocide in Darfur as part of an overall effort to bring peace to that region. It was written before the Government of National Unity was inaugurated. It was written before it became clear that the African Union forces needed additional assistance to protect the people of Darfur and those who would help them.

Consequently, I would strongly urge my colleagues to pass this legislation without further changes and support its passage on the floor of this House. We will have to reconcile this legislation with the bill passed late last year by the Senate, and it is in that conference forum that we can make necessary adjustments. If we continue to tinker with this bill, it may never be passed because there are so many Members in the House who have a strong interest in meeting the needs of Sudan generally and Darfur in particular.

After all this time we've spent on HR 3127, it is now time to move it forward, making our priorities known to the Administration, to the Government of Sudan and its opponents, and to the international community on how we believe the Darfur crisis should be handled.

Chairman HYDE. The Chair recognizes Mr. Lantos.

Mr. LANTOS. Thank you very much, Mr. Chairman. I would just like to commend you for your extraordinary work on this legislation. I want to associate myself with the comments of both of my friends, Mr. Payne and Mr. Smith, and I would like to add a personal note.

It seems ages ago, although it was only many months ago, that I had the privilege on the Democratic side of managing the debate on our legislation designating what is unfolding in Darfur a genocide. I have some personal experience with genocides, and I am pleased that, at long last, we are moving with this singularly important bill.

It is unconscionable that the civilized world would stand aside as vast numbers of utterly innocent men, women, and children are slaughtered by the Arab militias with the connivance and support of the government. I trust that our legislation will finally move the process forward and will bring to justice the perpetrators of this nightmare. Thank you, Mr. Chairman.

Chairman HYDE. Thank you, Mr. Lantos.

The Chair notes the presence of a reporting quorum, and the question occurs on the motion to report the bill, H.R. 3127, favorably, as amended. All of those in favor will say aye.

[A chorus of ayes.]

Chairman HYDE. Opposed, nay. The ayes have it. The motion is agreed to without objection. The staff is directed to make any technical and conforming changes.

[Whereupon, at 10:23 a.m., the Committee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE GREGORY W. MEEKS, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW YORK

I would like to join my colleagues in thanking the Chairman and Ranking Member for the tireless efforts they have put into this bill and for holding this markup. After July 22, 2004, when the House and Senate declared that the atrocities taking place in Darfur are in fact genocide, I had hoped that this body would have aggressively worked in a timely fashion to force the government in Khartoum to stop the killing.

But, that is behind us now, hundreds more people have been displaced, killed, raped—the attacks have continued and now, the Janjaweed and rebels forces in Chad are attacking children who have sought refuge in that neighboring country—but, I am glad that we are marking up this bill because it sends a strong message that we will not allow genocide to continue.

We should not feel bad because the entire international community has failed Darfur, the entire international community has failed to act to STOP the genocide. We have monitored the genocide, watched it happen but we don't have the humanity to STOP it.

I am thankful that after months of negotiations and compromise, I am pleased to see that the bill clearly defines benchmarks for the lifting of sanctions which include ending the genocide in Darfur, disarming the Janjaweed, disarming and ceasing to give safe haven to the Northern Uganda terrorist group the Lord's Resistance Army (LRA), and fully implementing the Comprehensive Peace Agreement (CPA) between the North and South.

I hope this sends a clear message to the world that the United States of America is serious about stopping genocide and we will not be meeting with or partnering with terrorist states.

We must send a clear message that our CIA or other branch of our intelligence agencies will not fly Sudan's intelligence chief to Washington or any government official accused of orchestrating genocide for secret meetings unless it is a means to arrest him or her.

We must not allow the children or any family members of genocide accusers to come to this country to benefit from our freedom here while they restrict freedom for their citizens at home. Those responsible should pay for the innocent lives they have taken and Mr. Chairman, I hope this bill will be brought to the House floor for a vote as expeditiously as humanly possible.

